IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9822 OF 2004

Mr.Prakash Shankarrao Wandre ..Petitioner.

Vs.

Maharashtra State Financial Corporation ..Respondents.

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Mr.A.V.Anturkar with Mr.K.K.Jadhav for the Petitioner.

Mr.M.P.Rege for Respondent No.1.

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CORAM : DR.D.Y.CHANDRACHUD, J.

12th April, 2005.

P.C. :

The order of the Additional District Judge by which the interim injunction was vacated does not call for interference under Article 227. The Petitioner is admittedly a guarantor. The flat in question has been mortgaged to the State Financial Corporation. Under Section 29 of the State Financial Corporations Act, the First Respondent is statutorily entitled to take possession and to seek recourse to its remedies as

provided in Section 29. Counsel for the Petitioner urges that the First Respondent proceeded to sell the plant and machinery at a value of Rs.19 lacs though the Petitioner had a prospective buyer who had offered Rs.57 lacs. The First Respondent had explained its decision in paragraph 21 of the reply filed before the Trial Court. This has also been noted in the impugned order of the Additional District Judge. The prospective buyer whom the Petitioner had produced had submitted a conditional offer, the condition being that the Petitioner should be released from his liability as a guarantor and that the flat which was furnished as collateral security should also be released. The First Respondent was justified in rejecting the conditional offer. That apart, the First Respondent sold the plant and machinery after conducting a public auction. In these circumstances, the Additional District Judge was justified in allowing the appeal and vacating the order of interim injunction. No such injunction could have been granted to restrain the First Respondent from seeking recourse to its statutory rights under the Act.

Counsel appearing on behalf of the Petitioner stated that the Petitioner would, within a period of three weeks from today, be in a position to submit a concrete offer to the First Respondent so that the First Respondent can realise the market value of the flat. Counsel for the First Respondent states that in the event that an offer is submitted within a period of three weeks, and if it is a bonafide offer accompanied by a substantial deposit, the First Respondent will consider the offer, failing which the First Respondent would proceed to take necessary action in accordance with law. There is no merit in the Petition which is accordingly rejected.